

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>Paxson Management Corporation and Lowell</b>	)	File Nos. BTCCT-20070514AOR <i>et al.</i>
<b>W. Paxson</b>	)	
(Transferors)	)	
	)	
and	)	
	)	
<b>CIG Media LLC</b>	)	
(Transferee)	)	
	)	
For Transfer of Control of ION Media Networks,	)	
Inc., and Certain Subsidiaries, Licensees of Station	)	
KPPX(TV), Tolleson, Arizona, <i>et al.</i>	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: December 30, 2007**

**Released: December 31, 2007**

By the Commission: Commissioner Copps concurring and issuing a statement.

**I. INTRODUCTION**

1. Before the Commission are the applications listed in the attached Appendix that seek to transfer control of licensee subsidiaries of ION Media Networks, Inc. (“ION”),<sup>1</sup> from Lowell W. Paxson and Paxson Management Corporation (“PMC”) to CIG Media LLC (“CIG Media”). ION is the direct or indirect parent of licensee subsidiaries that hold 59 full-service broadcast television licenses and associated low-power, Class A, and television translator licenses. ION stockholders Gradient Partners, L.P., Gradient OC Master, Ltd., Caspian Capital Advisors, LLC, River Vail Holdings, L.L.C., Latigo Master Fund, Ltd., Par-Four Master Fund, Ltd., and Southpaw Credit Opportunity Master Funds LP (the “Petitioners”), filed a consolidated petition to deny on June 18, 2007, which they supplemented on June 29, 2007.<sup>2</sup> ION, CIG Media, and NBC Universal, Inc. (“NBC”) filed separate oppositions on July 11,

<sup>1</sup> Paxson Communications Corporation (“Paxson”) changed its corporate name to ION on February 28, 2006.

<sup>2</sup> The Petitioners allege viewer standing under *Office of Communication of the United Church of Christ v. FCC*, 359 F.2d 994 (D.C. Cir. 1966). Citing various decisions of the U.S. Court of Appeals for the District of Columbia Circuit, ION, CIG Media, and NBC argue that viewer standing does not pertain here because grant of the applications would not harm the petitioners as viewers of the stations in question. *See, e.g., ION Opposition*, at 4, note 5, *citing Rainbow/Push Coalition v. FCC*, 330 F.3d 539, 545-546 (D.C. Cir. 2003). As noted in previous cases, “[o]ur administrative standard for broadcast standing is less stringent than the judicial standard applied to petitioners appealing Commission decisions in federal court.” *Sagittarius Broadcasting Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 22551, 22554, n. 20 (2003). Section 309(d)(1) of the Communications Act of 1934, as amended (the “Act”), provides that a party filing a petition to deny must demonstrate that he or she is a “party in interest.” 47 U.S.C. § 309(d)(1). The Commission has granted viewer standing to petitioners raising similar allegations in the past. *Shareholders of Hispanic Broadcasting Corporation*, Memorandum Opinion and Order, 18

(continued....)

2007. For the reasons set forth below, we deny the petition to deny and grant the applications.

## II. BACKGROUND

### A. The Transaction

2. Initially, ION's capitalization consisted of two classes of common stock, both of which carried voting rights, and four classes of preferred stock, one of which carried voting rights. Lowell Paxson holds voting control through his ownership of ION's Class B common stock, which carries "super-voting" rights entitling him to an approximately 52.3% voting interest. On November 7, 2005, PMC also entered into a PMC Management and Proxy Agreement with the purpose of placing more operational control over the individual stations with Lowell Paxson.<sup>3</sup> Lowell Paxson has a 99% voting and equity interest in PMC. Though the proposed transaction and recapitalization effort will occur in several stages, after consummation, CIG Media, which currently owns one class of ION nonvoting stock, will have acquired Lowell Paxson's control stock. It will then terminate the PMC Management and Proxy Agreement, and take the company private.

3. CIG Media is ultimately controlled by Kenneth Griffin, Todd Gjervold and Joe Russell. Equity ownership of CIG media is divided between two private equity funds – Citadel Wellington, LLC ("Citadel Wellington"), and Citadel Kensington Global Strategies Fund, Ltd. ("Citadel Kensington"). Both Citadel Wellington and Citadel Kensington operate as insulated, limited members of CIG Media,<sup>4</sup> while management and voting control of Citadel Wellington, Citadel Kensington, and CIG Media rests with the Citadel Limited Partnership. The Citadel Investment Group, L.L.C. and its 100% direct and indirect owner, Kenneth Griffin, serve as General Partner of the Citadel Limited Partnership, while the Citadel Limited Partnership is otherwise managed by its Portfolio Managers Todd Gjervold and Joe Russell.

4. In 1999 NBC entered into an investment relationship with Paxson, which was reflected in three agreements: an Investment Agreement; a Stockholder Agreement; and a Warrant and Call Agreement. These agreements were filed with the Commission pursuant to Section 73.3613 of the Commission's rules.<sup>5</sup> As a result of the agreements, NBC acquired an economic interest in Paxson, reflected originally in a separate class of nonvoting preferred stock that was convertible to voting common stock. NBC also acquired an option to purchase the control stock held by Lowell Paxson, which could not be exercised unless and until the Commission's multiple ownership rules were modified. In addition to the financial

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FCC Rcd 18834, 18835, n. 4 (2003) ("2003 Univision Order"). Even if the Petitioners lacked viewer standing, their allegation of economic injury would entitle them to party-in-interest standing. *Office of Communication of the United Church of Christ v. FCC*, 359 F.2d at 1000 (noting that judicial concept of standing has traditionally encompassed those alleging some economic injury). In this case, the Petitioners have alleged that the transaction is "designed to forcibly extract from [Petitioners] hundreds of millions of dollars." *Petition to Deny*, at 5-6. We, thus, find that the petitioners have demonstrated standing in the instant case.

<sup>3</sup> Paxson filed an FCC Form 316 transfer of control application reflecting the November 7, 2005, Management and Proxy Agreement, which the Commission granted on September 2, 2005. *See, e.g.*, File No. BTCCT-20050817ADL.

<sup>4</sup> *Applications For Transfer of Control*, at Exhibit 14-Supplement. Individuals or entities holding partnership and non-insulated limited partnership interests are generally subject to the Commission's broadcast multiple and cross-ownership rules, regardless of the amount or percentage of equity held. 47 C.F.R. §73.3555, Note (f)(1). An exception from attribution applies to insulated limited partners as set forth in the Notes to Section 73.3555. *Id.* at Note (f)(1) and (2).

<sup>5</sup> 47 C.F.R. §73.3613.

relationship between NBC and Paxson, the 1999 Investment Agreement contained provisions setting forth certain aspects of the corporate governance of Paxson. Under Section 4.1 of the Investment Agreement, NBC held approval rights over certain Paxson corporate actions. As set forth in the 1999 Stockholder Agreement, NBC also had the right to nominate three members to the Paxson Board of Directors.

5. In 2001, Paxson initiated arbitration alleging that NBC's planned acquisition of Telemundo Communications Group, Inc. ("Telemundo") violated the 1999 agreements. Paxson also filed a Petition to Deny and Request for Declaratory Ruling opposing the transfer of control applications, in which it alleged that "certain actions by the NBC-nominated members of Paxson's board of directors have violated certain terms of their 1999 agreements and may have caused attribution of Paxson's television stations to NBC contrary to the multiple ownership rules."<sup>6</sup> The Commission granted in part the Request for Declaratory Ruling, and admonished NBC for the conduct of its nominees after their election.<sup>7</sup>

6. In 2005, ION and NBC restructured their investment relationship. Among other changes to the relationship, NBC "waived a number of its rights under the 1999 agreements," which included significantly limiting those corporate actions requiring prior NBC approval.<sup>8</sup> Lowell Paxson also stepped down as director, Chairman and Chief Executive Officer of ION, and was replaced by Brandon Burgess, who resigned from his employment with NBC to take the position.<sup>9</sup> Mr. Burgess was subsequently appointed to the ION Board of Directors.

7. In connection with the proposed transaction, the parties have entered into five primary agreements: (1) a Master Transaction Agreement describing the recapitalization process, in particular the process by which CIG Media will acquire Lowell Paxson's shares;<sup>10</sup> (2) a Call Agreement between CIG Media and a subsidiary of NBC granting the NBC subsidiary an option to acquire, subject to Commission approval, the shares CIG Media will acquire from Lowell Paxson as part of the proposed transaction; (3) a second Call Agreement granting the NBC subsidiary an option to purchase additional shares held by Lowell Paxson; (4) a Stockholders' Agreement governing the corporate governance of the post-transaction ION, the relevant provisions of which will take effect after consummation; and (5) a separate Put/Call Agreement, whereby CIG Media will, under certain circumstances, have the right to put its ION shares to NBC, and NBC will have the right to call those ION shares held by CIG Media. Pursuant to the May 4, 2007, Stockholders' Agreement, NBC will have the right to nominate two members to the ION Board of Directors once its voting interest reaches a certain threshold. While originally part of the 2007 Stockholders' Agreement, ION notified the Commission on November 26, 2007, that it had removed a related provision contained in Section 3.1(b)(iii) that provided NBC with the contingent right to name two board observers should it not be entitled to nominate members to the ION Board of Directors. The 2007 Stockholders Agreement also restored several of the minority investor protection rights relinquished in 2005. Pursuant to the November 26, 2007, amendment, ION revised Sections 5(d), (f), and (m) of the May 4, 2007, Stockholders' Agreement. Under the revised Sections 5(d) and (m), ION does not need

<sup>6</sup> *Telemundo Communications Group, Inc.*, Memorandum Opinion and Order, 17 FCC Rcd 6958, 6967 (2002) ("2002 Telemundo Order").

<sup>7</sup> *Id.* at 6974. The Commission admonished Paxson as well, stating that "[w]e further clarify that we do not admonish Paxson for the decision to approve as directors NBC's employees, but rather for the decision not to remove the directors as offered by NBC and to continue this relationship in place, despite the actions taken by the NBC directors." *Id.*

<sup>8</sup> *NBC Opposition*, at 8.

<sup>9</sup> The 2005 agreements were filed with the Commission pursuant to Section 73.3613 of the Commission's rules. 47 C.F.R. § 73.3613.

<sup>10</sup> Certain aspects of the Master Transaction Agreement not effecting ultimate control of ION will take effect prior to closing.

written approval from NBC prior to entering into individual station agreements relating to the use of the digital spectrum, or entering into joints sales, local marketing and similar agreements relating to a certain proportion of ION's stations. Under the revised Section 5(f), NBC will have the right to approve the sale of individual ION station sales, if the station is located in one of the 10 largest DMAs, and has a fair market value of 10 percent or greater than the book value of ION's consolidated tangible assets.

## B. Petitioner's Allegations

8. The Petitioners filed a request to enjoin the transaction in the Court of Chancery of the State of Delaware in connection with a suit challenging an exchange offer involving their shares. The Court denied the request for injunction on June 10, 2007, but the civil suit remains pending. Petitioners allege both here and in the pending civil suit that the transaction is "designed to forcibly extract from [Petitioners] hundreds of millions of dollars, give that extracted value to [CIG Media] and NBC, and thereby force Petitioners to pay for the acquisition of [ION] by [CIG Media] and NBC."<sup>11</sup>

9. The Petitioners argue that the rights granted NBC in the May 4, 2007, Stockholders' Agreement will render ION's television stations attributable to NBC, thus resulting in violation of the Section 73.3555 of the Commission's rules (the "local television ownership rule") in several markets.<sup>12</sup> They contend, more specifically, that the rights contained in the 2007 Stockholders' Agreement exceed the limits the 2002 *Telemundo Order* placed upon the NBC/Paxson relationship. The Petitioners state that NBC is attempting here what it could not do in 2002, namely, take control of ION.

10. The Petitioners cite, in particular, NBC's right to nominate two members to the ION Board of Directors. They state that, "[w]hile there is no assurance that [NBC's] nominees will be elected, there is no assurance that they will not be elected."<sup>13</sup> They maintain that NBC will use its financial influence, and right to approve certain corporate actions, to ensure their nominees' election. Further, they note that election of NBC employees to the Paxson board was a critical factor in the 2002 *Telemundo Order*, and that Section 3.1(b)(ii) of the 2007 Stockholders' Agreement only precludes the nomination of NBC employees "until such time as [NBC] determines, in its reasonable discretion, that the Communications Act permits [NBC] to nominate an employee of [NBC] or any of its affiliates to be an [ION Director]."<sup>14</sup> They argue that such language improperly usurps the "FCC's role as arbiter of what is acceptable under the attribution rules."<sup>15</sup> They also contend that Brandon Burgess is not independent, and cite NBC's contingent right to name two board observers, noting that board observers were "at each of the meetings in 2007 at which alternative recapitalization proposals were discussed."<sup>16</sup> As noted above, however, the right to name board observers been removed from the 2007 Stockholders' Agreement.

11. In addition to allegedly holding an attributable interest in ION, the Petitioners argue that "CIG [Media] and NBC have orchestrated a premature, unauthorized transfer of control of [ION] through a number of strategies."<sup>17</sup> First, the Petitioners state "that NBC will transfer its call rights to CIG for no apparent comparable monetary consideration, other than reciprocal call rights."<sup>18</sup> The Petitioners claim

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<sup>11</sup> *Petition to Deny*, at 5-6.

<sup>12</sup> 47 C.F.R. §73.3555(b).

<sup>13</sup> *Petition to Deny*, at 9 (emphasis in original).

<sup>14</sup> May 4, 2007, Stockholders' Agreement, at ¶ 3.1(b)(ii).

<sup>15</sup> *Petition to Deny*, at 10.

<sup>16</sup> *Id.* at 11

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

that this transaction violates business logic and sound fiduciary judgment because ION will incur \$580 million in new long term debt - which could swell to \$650 million in new long term debt depending on the outcome of the exchange transaction with ION's preferred shareholders - in exchange for only \$100 million in new money. Second, the Petitioners challenge the new call rights granted NBC, in particular the fact that NBC paid 80% of the exercise price as consideration. Finally, the Petitioners claim that the 2005 agreements between ION and NBC resulted in a change of control because ION is allegedly obligated by the agreements to support any NBC-sponsored transaction.

12. In its supplement, the Petitioners challenge NBC's limited veto right over ION's budget items. They also argue for the first time that CIG Media has acquired unauthorized control over ION. The Petitioners cite Section 10.03 of the 2007 Master Transaction Agreement, in which CIG Media allegedly has the current right to designate two members of the ION board of directors, and is further allegedly entitled to designate a director to fill any vacancy resulting from the departure of representatives of certain classes of stock. Petitioners also allege that Section 3.3 of the November 7, 2005, Amended and Restated Stockholder Agreement among Paxson Communications Corporation, Lowell Paxson, and NBC also required Mr. Paxson to vote his "control stock" for directors in the same manner as the Class A stock, 90% of which was held by CIG Media at the time the supplement was filed. Consequently, the Petitioners argue that CIG Media presently has the power to elect all members of the ION Board of Directors. The Petitioners cite provisions in the 2007 Master Transaction Agreement that require CIG and NBC to keep each other informed about the status of any stockholder litigation, require both CIG and NBC to consent to the settlement of that litigation, and provide both parties with the right to jointly participate in the defense of any stockholder litigation.

13. ION, CIG Media, and NBC argue in their respective oppositions that the Petitioners' allegations stem from a private business dispute among ION shareholders of a type that the Commission has long stated is best resolved by courts of competent jurisdiction. They contend that, contrary to the Petitioners' allegations, the various agreements entered into as part of the proposed transaction have been structured to comply with the *2002 Telemundo Order*. They maintain, for instance, that the *2002 Telemundo Order* did not prohibit NBC's right to nominate two members to the ION Board of Directors so long as the nominees are neither employees or agents of NBC.<sup>19</sup> They further maintain that the appointment of Mr. Burgess as CEO of ION and member of the ION Board of Directors complies with the *2002 Telemundo Order* because Mr. Burgess "completely severed his employment and financial relationship with [NBC] and pledged to remain independent from [NBC] in all ways."<sup>20</sup> NBC argues, in particular, that Section 3.1(b)(ii) of the 2007 Stockholders' Agreement simply permits it to respond to a change of Commission rules, is standard in such agreements, and does not usurp the Commission's role in determining what interests are attributable. ION, CIG Media, and NBC also contend that the Commission specifically approved NBC's right to approve certain ION corporate actions contained in Section 5 of the May 2007 Stockholders' Agreement. They state, in particular, that the Commission, in the *2002 Telemundo Order*, "approved a budget approval right that provided for a default to the prior year's budget in the event of a dispute."<sup>21</sup> NBC argues, in particular, that the budget approval right contained in the 2007 Stockholders' Agreement is even more limited than the one considered in 2002 since it does not permit NBC to reject an entire budget. ION, CIG Media, and NBC also argue that "the mere right to consent to settlement of litigation has been approved by the Commission as a permissible minority shareholder right that does not evince *de facto* control."<sup>22</sup>

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<sup>19</sup> *NBC Opposition*, at 21.

<sup>20</sup> *Id.*, at 19.

<sup>21</sup> *Id.*, at 26.

<sup>22</sup> *CIG Media Opposition*, at 28. CIG Media cites *Roy M. Speer*, 11 FCC Rcd 18393, 14156 (1996) as support.



14. ION, CIG Media, and NBC argue that whether the proposed transaction violates business logic or sound fiduciary judgment is not within the jurisdiction of the Commission to determine. They maintain that, in any case, a special committee of independent directors has already approved the transaction. ION and NBC argue that NBC's option to acquire CIG Media's control shares is permissible since the Commission has long held that unexercised options do not result in attribution. They also argue that the up-front payment of 80% of the option price is not indicative of an unauthorized transfer of control and does not otherwise violate Commission rules so long as the payment combined with NBC's other investments in ION comply with the Equity/Debt Plus ("EDP") attribution threshold.<sup>23</sup> NBC argues that the Petitioners have not alleged that the consideration paid for the option would result in attribution under the EDP attribution standard.

15. With respect to whether CIG Media has already acquired *de facto* control of ION, ION, CIG Media, and NBC all argue that the transaction has been structured so that control will not be transferred until CIG Media closes on its acquisition of Lowell Paxson's control shares. They argue that under the 2007 Master Transaction Agreement, CIG Media can at most place two directors on the ION Board of Directors prior to acquisition of Lowell Paxson's control shares. They argue that this language in the 2007 Master Transaction Agreement supersedes the November 7, 2005, Amended and Restated Stockholder Agreement requiring that Lowell Paxson vote his shares in the same manner as the majority of Class A common stock. Instead, NBC argues that this provision of the November 7, 2005, agreement was meant to ensure that Lowell Paxson followed through on the commitments undertaken to restructure NBC's relationship with ION. Regardless, ION, CIG Media, and NBC all argue that PMC retains separate voting and operational control of ION's licensee subsidiaries as a result of the 2005 PMC Management and Proxy Agreement, and that this agreement will not be transferred until consummation of the instant transaction.

### III. DISCUSSION

#### A. Standard of Review

16. Section 310(d) of the Act provides that no station license shall be transferred or assigned until the Commission, upon application, determines that the public interest, convenience, and necessity will be served thereby. In making this assessment, the Commission must first determine whether the proposed transaction would comply with the specific provisions of the Act,<sup>24</sup> other applicable statutes, and the Rules.<sup>25</sup> If the transaction would not violate a statute or rule, the Commission considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation

<sup>23</sup> See 47 C.F.R. §73.3555, Note 2(i).

<sup>24</sup> Section 310(d) requires that the Commission consider the applications as if the proposed transferee were applying for the licenses directly. 47 U.S.C. § 310(d). See *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18290, 18300 ¶ 16 (2005) ("*SBC-AT&T Order*"); *Verizon Communications, Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18433, 18442-43 ¶ 16 (2005) ("*Verizon-MCI Order*"); *Applications of Nextel Communications, Inc. and Sprint Corporation*, 20 FCC Rcd 13967, 13976 ¶ 20 (2005) ("*Sprint-Nextel Order*"); *News Corp.-Hughes Order*, 19 FCC Rcd at 483 ¶ 15; *Comcast-AT&T Order*, 17 FCC Rcd at 23255 ¶ 26.

<sup>25</sup> See, e.g., *SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18442-43 ¶ 16; *Applications for Consent to the Assignment of Licenses Pursuant to Section 310(d) of the Communications Act from NextWave Personal Communications, Inc., Debtor-in-Possession, and NextWave Power Partners, Inc., Debtor-in-Possession, to Subsidiaries of Cingular Wireless LLC*, 19 FCC Rcd 2570, 2580-81 ¶ 24 (2004); *EchoStar Communications Corp., General Motors Corp. and Hughes Electronics Corp., and EchoStar Communications Corp., Hearing Designation Order*, 17 FCC Rcd 20559, 20574 ¶ 25 (2002) ("*EchoStar-DIRECTV HDO*").

of the Act or related statutes.<sup>26</sup> The Commission then employs a balancing process, weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.<sup>27</sup> The applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, would serve the public interest.<sup>28</sup>

17. In reviewing the petition to deny under the public interest standard, the Commission applies a two-step analysis. The Commission must first determine whether the petition contains specific allegations of fact sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.<sup>29</sup> This first step “is much like that performed by a trial judge considering a motion for directed verdict: if all the supporting facts alleged in the [petition] were true, could a reasonable factfinder conclude that the ultimate fact in dispute had been established.”<sup>30</sup> If a petition meets this first step, the Commission must determine whether, “on the basis of the application, the pleadings filed, or other matters which [the Commission] may officially notice,” the petitioner has raised a substantial and material question of fact as to whether granting the application would serve the public interest.<sup>31</sup> We find that the Petitioners have failed to raise a substantial and material question of fact as to whether NBC has acquired an attributable interest in ION. We further find that the Petitioners have failed to raise a substantial and material questions of fact as to whether NBC and/or CIG Media have prematurely acquired control over ION.

## B. Attribution

18. The Commission’s attribution rules seek to identify those interests in or relationships to licensees that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions.<sup>32</sup> Such interests, which are set forth both in Note 2 to Section 73.3555 of the Commission’s rules and Commission precedent,<sup>33</sup> will be attributed to their holders and deemed cognizable for purposes of determining compliance with the Commission’s multiple ownership rules. In this case, NBC acknowledges that attribution of its interest in ION would result in violation of the Commission’s broadcast television multiple ownership rule in multiple markets.<sup>34</sup> For the reasons below, we conclude that neither NBC’s existing interest in ION nor the interests in ION that NBC would obtain as a result of the proposed transfers are attributable to NBC for purposes for the Commission’s multiple ownership

<sup>26</sup> See *SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443 ¶ 16; *Sprint-Nextel Order*, 20 FCC Rcd at 13976 ¶ 20.

<sup>27</sup> See *SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443 ¶ 16; *Sprint-Nextel Order*, 20 FCC Rcd at 13976 ¶ 20; *News Corp.-Hughes Order*, 19 FCC Rcd at 483 ¶ 15; *Comcast-AT&T Order*, 17 FCC Rcd at 23255 ¶ 26.

<sup>28</sup> See *SBC-AT&T Order*, 20 FCC Rcd at 18300 ¶ 16; *Verizon-MCI Order*, 20 FCC Rcd at 18443 ¶ 16; *Comcast-AT&T Order*, 17 FCC Rcd at 23255 ¶ 26; *EchoStar-DIRECTV HDO*, 17 FCC Rcd at 20574 ¶ 25.

<sup>29</sup> 47 U.S.C. §309(d)(1); *Astroline Communications Co. Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) (“*Astroline*”).

<sup>30</sup> *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987) (“*Gencom*”). See also *Serafyn v. FCC*, 149 F.3d 1213, 1216 (D.C. Cir. 1998) (affirming two-step public interest analysis) (“*Serafyn*”).

<sup>31</sup> *Astroline*, 857 F.2d at 1561; 47 U.S.C. §309(e). See also *Gencom, Inc.*, 832 F.2d at 181.

<sup>32</sup> *Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, 14 FCC Rcd 12559 (1999) (“*1999 Attribution Order*”).

<sup>33</sup> 47 C.F.R. §73.3555, Note 2.

<sup>34</sup> See 47 C.F.R. §73.3555(b).

rules.

### 1. Approval Rights Over Certain Corporate Actions

19. In the past, the Commission has generally permitted nonattributable investors to hold certain minority investor protection rights, including the right to approve certain corporate matters that would alter, fundamentally, the nature and value of their investments. Approval rights permitted in the past have included such fundamental corporate matters as issuance of stock,<sup>35</sup> amendments to the certificate of incorporation,<sup>36</sup> acquisition or disposition of assets constituting more than 10% of the company's market or book value,<sup>37</sup> merger, sale, liquidation, bankruptcy or winding-up of an entity,<sup>38</sup> and certain transactions outside the ordinary course of business.<sup>39</sup> Permitting a certain level of minority investor protection without implicating the multiple ownership rules is generally in the public interest because it encourages investment in broadcast properties, and thus enhances the ability of stations to provide better programming to the public. It also provides investors with the ability to invest in properties that they would not be able to own outright. However, as stated in previous cases, minority investor protections, in particular the right to approve certain corporate actions, must be "narrowly circumscribed,"<sup>40</sup> so that the investor does not "become involved in the overarching policymaking activities" of the entity or the "day-to-day operations of [its] stations."<sup>41</sup>

20. Section 5 of the May 4, 2007, Stockholders' Agreement between ION, CIG Media, and NBC, as revised on November 26, 2007, states that ION must obtain the prior written approval of NBC and CIG Media before it: (1) adopts any shareholders rights plan or enters into any material agreement that would prevent the acquisition of stock by NBC or CIG Media; (2) takes any action that would cause NBC or CIG Media to have an attributable interest in a broadcast facility, newspaper, or other communications facility licensed by the FCC; (3) adopts an annual budget, with the proviso that the prior year's budget will be used if the parties cannot reach agreement; (4) amends the certificate of incorporation or by-laws; (5) sells any station in the top 10 DMAs, provided that the station has a fair market value of 10 percent or more of the book value of ION's consolidated tangible assets; (6) sells assets during a 1-year period that constitute more than 20% of ION's book value, acquires assets during a 1-year period that constitute more than 10% of ION's book value, or enters into any merger where ION is not the surviving entity; (7) issues new stock, subject to certain exceptions; (8) splits, combines or reclassifies stock in a manner adverse to NBC or CIG Media; (9) enters into certain employment agreements; (10) increases the size of the board; and (11) files for bankruptcy or winds up the company.

21. We find the provisions contained in Section 5 of the May 4, 2007, Stockholders' Agreement, as listed above, mirror rights the Commission has previously approved. In particular, a budget approval right similar to the one contained in the 2007 Stockholders' Agreement was challenged by Paxson in its 2001 Petition to Deny and Request for Declaratory Ruling. As was the case in the 2002 *Telemundo Order*, we find the 2007 budget approval right does not result in attribution of NBC's interest since, as was the case for the 1999 agreements, it provides for the use of the prior year's budget in case of

<sup>35</sup> *Shareholders of AMFM, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 16062, 16077 (2000).

<sup>36</sup> *Id.*

<sup>37</sup> *Roy M. Speer*, Memorandum Opinion and Order, 11 FCC Rcd 14147, 14155-56, 14158 (1996).

<sup>38</sup> *Quincy D. Jones*, 11 FCC Rcd at 2482-2483.

<sup>39</sup> *Roy M. Speer*, 11 FCC Rcd at 14155; *Quincy D. Jones*, 11 FCC Rcd at 2482.

<sup>40</sup> *BBC License Subsidiary, Inc. (WLUK-TV)*, 10 FCC Rcd at 7933. See, also, *Quincy D. Jones*, 11 FCC Rcd at 2487; *News International PLC*, Memorandum Opinion and Order, 97 FCC 2d 349, 354 (1984).

<sup>41</sup> *Roy M. Speer*, 11 FCC Rcd at 14158.



disagreement between NBC and Paxson/ION.<sup>42</sup> To the extent any of the rights named above have not been specifically addressed in previous cases, we find that they are sufficiently “circumscribed,” so as not to insert NBC into the overarching policymaking activities of ION or the day-to-day operations of its stations.

## 2. Nomination Right

22. Pursuant to Section 3.1(b)(ii) of the 2007 Stockholders’ Agreement, NBC has the right to nominate two members to the ION Board of Directors contingent upon consummation of CIG Media’s acquisition of Lowell Paxson’s control shares, and specifically conditioned upon the nominee not being an employee of NBC or any of its subsidiaries and affiliates. We conclude that this right complies with the *2002 Telemundo Order*, and is consistent with non-attributable status. In the *2002 Telemundo Order*, the Commission stated that “the placement of NBC employees on Paxson’s board as well as the subsequent actions of these directors resulted in NBC having an attributable interest in Paxson.”<sup>43</sup> The Commission, consistent with past precedent addressing identical rights, did not find that the nomination right *per se* resulted in attribution. As stated by NBC in its opposition, NBC’s nomination right does not ensure that its nominees will be elected to the board. The *2002 Telemundo Order* did, however, caution that future directors of ION “not be NBC employees or agents but persons who would reasonably be expected to act independently in all future matters.”<sup>44</sup>

23. With respect to Mr. Burgess’s ongoing role with ION, the evidence of record indicates that Mr. Burgess severed his employment relationship with NBC prior to the 2005 restructuring of the NBC/Paxson relationship. As noted above, Mr. Burgess became a member of the Paxson board and was selected as CEO of Paxson concurrent with the 2005 restructuring, and he will retain these positions following consummation of the proposed transaction. In the *2002 Telemundo Order*, the Commission noted that Mr. Burgess “sent a letter, on NBC letterhead, to Paxson demanding certain concessions be made with respect to the original agreements between the companies.”<sup>45</sup> The Commission stated that “[t]he fact that [Mr. Burgess] was speaking on behalf of NBC about high-level business matters demonstrates that Mr. Burgess was acting as a senior NBC executive protecting NBC’s interests and not as an independent member of Paxson’s board.”<sup>46</sup>

24. In *BBC License Subsidiary, L.P. (WLUK-TV)*, the Commission permitted a senior employee of Fox Television Stations, Inc. (“Fox”) to terminate his employment relationship and take an executive position with a separate broadcast licensee in which Fox held a substantial interest.<sup>47</sup> The Commission determined, conditioned upon the outcome of the then-pending review of the Commission’s broadcast attribution rules, that the former employer could take the position without rendering Fox’s interest attributable despite Fox’s 25% nonvoting stock interest with an option to acquire a 50% voting stock interest, its present right to vote on certain extraordinary corporate actions, and the station’s affiliation agreement with the Fox Television Network.<sup>48</sup> Neither the Commission’s 1999 revision of the attribution rules, nor subsequent precedent, prohibits Mr. Burgess, as an ex-employee of NBC, from taking a

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<sup>42</sup> *Id.* at 6974.

<sup>43</sup> *2002 Telemundo Order*, 17 FCC Rcd at 6973.

<sup>44</sup> *Id.* at 6974.

<sup>45</sup> *Id.* at 6972.

<sup>46</sup> *Id.*

<sup>47</sup> *BBC License Subsidiary, Inc. (WLUK-TV)*, 10 FCC Rcd at 7933.

<sup>48</sup> *Id.*

position with ION. NBC states, specifically, that the 2005 Master Transaction Agreement “between [NBC] and ION provided (and continues to provide) that neither Mr. Burgess (nor any member of his immediate family or entity owned or controlled by him) would be an agent of [NBC] or any subsidiary or affiliate of [NBC]; that there were, and would be, no ‘commitments, arrangements, or understandings, written or oral,’ between Mr. Burgess and [NBC] pursuant to which Mr. Burgess would have ‘any legal or financial obligation to [NBC];’ and that Mr. Burgess would not be ‘entitled to receive now or in the future from [NBC]...any compensation or benefits of any kind, or other valuable consideration (including but not limited to any offer of future positions with [NBC] or any of its subsidiaries or affiliates)’ beyond his severance, vested pension benefits, and the like.”<sup>49</sup> Thus, we do not believe the fact that Mr. Burgess was a former employee, whether considered in isolation or in combination with NBC’s other interests, results in attribution of ION’s stations to NBC. NBC has denied that Mr. Burgess’s appointment as CEO was a condition of the 2005 restructuring or the 2007 agreements, and review of the agreements does not indicate otherwise.

25. Further, the Petitioners have not provided specific evidence of the kind of conduct that concerned the Commission in the *2002 Telemundo Order*. Apparently, ION has taken steps to prevent any conflict of interest resulting from Mr. Burgess’s former position with NBC. Mr. Burgess, for instance, is prohibited from “participating in any tender offer for company shares commenced by an affiliate of his former employer.”<sup>50</sup> Thus, not only do we find that Mr. Burgess is not an agent of NBC, but that his employment does not violate the Commission’s admonition in the *2002 Telemundo Order* that any NBC nominees be “reasonably expected to act independently in all Paxson matters.”<sup>51</sup> Our determination, however, is based on the facts before us, and we reserve the right to revisit Mr. Burgess’s role should new facts come to our attention.

26. The Commission, in the *2002 Telemundo Order*, made clear that nomination of an NBC employee or agent to the ION Board of Directors will result in attribution of NBC’s interest. Both NBC and ION are obligated to comply with the *2002 Telemundo Order* until either the Commission or a court of competent jurisdiction reverses it, regardless of language contained in the 2007 Stockholders’ Agreement. Section 3.1(b)(ii) of the 2007 Stockholders’ Agreement states that “[f]or the avoidance of doubt...no individual nominated by [NBC] shall be an employee of [NBC] or any of its affiliates.” We do not agree that the reference to NBC’s reasonable discretion in Section 3.1(b)(ii) usurps the Commission’s regulatory role. Instead, this provision appears to protect NBC’s rights to nominate its employees to the ION board in the event that the Commission alters the policy set forth in the *2002 Telemundo Order*.

### 3. Options

27. As noted above, NBC has entered into two Call Option Agreements and one Put-Call Agreement in connection with the proposed transaction. We do not find that these agreements, whether considered together or in isolation, or the price paid as consideration for these agreements, results in attribution of ION’s stations to NBC. The Commission has held that unexercised options do not result in attribution since such interests do not provide the interest holder with the incentive or means of exerting influence over the core operations of a licensee.<sup>52</sup> The fact that NBC paid 80% of the exercise price as

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<sup>49</sup> *NBC Opposition*, at 9.

<sup>50</sup> *ION Opposition*, at 14.

<sup>51</sup> *2002 Telemundo Order*, 17 FCC Rcd at 6974.

<sup>52</sup> *Review of the Commission’s Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Order on Reconsideration, 16 FCC Rcd 1097, 1112 (2001) (“*Attribution Reconsideration*”).

consideration for the option does not, in itself, result in attribution of NBC's interest.<sup>53</sup> The Commission does, however, include the amount of consideration paid for the option in determining whether the option holder's interest is attributable under the EDP attribution standard.<sup>54</sup> Under the EDP standard, the Commission will attribute financial interests amounting to over 33% of the total assets of a mass media entity where the interest holder is either a major program supplier to the entity or a same-market media entity.<sup>55</sup> In this case, the Petitioners do not allege that the consideration, along with NBC's other investment in ION will meet the EDP threshold of 33% of ION's total assets. In addition, on June 25, 2007, CIG Media filed an amendment to the applications setting forth in detail the post-consummation capitalization of ION, and certifying that the post-consummation EDP interest of NBC will be 15.91%.<sup>56</sup>

### C. *De Facto Control*

28. Lowell Paxson currently holds *de jure* control over ION as a result of his ownership of Class B common stock, and his ownership of PMC. Legal control of ION, therefore, will not pass to CIG Media until it consummates its acquisition of the control stock and terminates the 2005 PMC Management and Proxy Agreement. In assessing *de facto* control the Commission looks beyond legal title and financial interests to determine who controls the policies governing programming, personnel and finances.<sup>57</sup> An unauthorized transfer of *de facto* control would violate Section 310(d) of the Act.<sup>58</sup>

29. The Petitioners have not provided specific evidence of conduct indicating that NBC or CIG Media actually determine ION's policies governing programming, personnel and finances. NBC's financial investment does not, in itself, demonstrate control over ION's basic operating policies. ION states that a Special Committee made up of independent members of the ION Board of Directors ultimately chose the proposed transaction over other alternative recapitalization offers.<sup>59</sup> ION further states that the Special Committee "retained its own independent financial and legal advisors," and that the step-by-step process by which the Special Committee solicited and evaluated competing offers was disclosed in a Section 14D-9 Solicitation/Recommendation Statement filed with the SEC. NBC's right to consent to settlement of shareholder litigation is not evidence of *de facto* control. The Commission has long recognized such a right as a permissible minority shareholder protection.<sup>60</sup>

30. We further do not agree that CIG Media has prematurely acquired control over ION. CIG Media's current right to designate two members to the ION Board of Directors does not indicate a transfer of control since the board will have a total of 13 members. The Petitioners have not alleged that the right to fill any vacancies prior to closing will result in CIG Media designating a majority of the members of the ION board. The Petitioners cite Section 3.3 of the November 7, 2005, Amended and Restated Stockholder Agreement among Paxson Communications Corporation, Lowell Paxson, and NBC as support for both its contention that NBC has acquired control, and its alternative allegation that CIG Media has acquired control. With respect to NBC, the Petitioners argue that the provision forces Lowell

<sup>53</sup> See, e.g. *Solar Broadcasting Company, Inc.*, 17 FCC Rcd 5467, 5487 (2002).

<sup>54</sup> *Attribution Reconsideration*, 16 FCC Rcd at 1112.

<sup>55</sup> *1999 Attribution Order*, 14 FCC Rcd at 12579.

<sup>56</sup> *Applications For Transfer of Control*, at Exhibit 14-Supplement, page 3.

<sup>57</sup> *WGPR, Inc.*, 10 FCC Rcd 8140, 8142 (1995); *Choctaw Broadcasting Corp.*, 12 FCC Rcd 8534, 8539 (1997); *Southwest Texas Broadcasting Council*, 85 F.C.C. 2d 713, 715 (1981).

<sup>58</sup> 47 U.S.C. §310(d).

<sup>59</sup> *ION Opposition*, at 15.

<sup>60</sup> *Roy M. Speer*, 11 FCC Rcd at 14156.

Paxson to vote his control shares for any NBC-sponsored transaction. The Petitioners argue that it also gives CIG Media the current right to designate all members to the Board of Directors. It appears, however, that this provision is limited to circumstances pertaining to the 2005 restructuring, and that the 2007 Master Transaction Agreement limiting CIG Media's designation right to two members supersedes any contrary provisions in the 2005 agreement. The Petitioners have provided no evidence that NBC used this provision to force ION into a transaction that Lowell Paxson, or the ION Board of Directors, opposed.

#### **D. Alleged Violations of Corporate Law and Fiduciary Duties.**

31. The Petitioners' allegation that they will be forced to pay for the acquisition of ION by CIG Media through a disadvantageous exchange offer, that the transaction violates sound business logic or fiduciary judgment, and that the ION Board of Directors ignored more attractive competing offers are all aspects of the financial and business dispute before the Court of Chancery of the State of Delaware. Whether or not the transaction violated the rights of shareholders is a question of state law and private contract, matters which the Commission has historically and consistently left to local courts of appropriate jurisdiction.<sup>61</sup> These allegations fail to demonstrate that grant of the applications would be *prima facie* inconsistent with the public interest. The Commission, in ruling on the instant applications, is solely determining whether grant would comply with the Commission's rules, and would otherwise serve the public interest, convenience, and necessity. Our consent does not require consummation prior to resolution of the Petitioners' civil suit and, therefore, in no way prejudices the Petitioners' rights.

#### **E. Pending Renewals**

32. On September 1, 2004, the Office of Communication of the United Church of Christ, Inc., and the Center for Digital Democracy ("UCC"), filed a Petition to Deny opposing the license renewal applications of Station WPXW(TV), Manassas, Virginia, licensed to ION subsidiary Paxson Washington License, Inc. ("Paxson Washington"), and Station WDCA(TV), Washington, D.C., licensed to Fox Television Stations, Inc. UCC argues that the program *Miracle Pets* aired by Station WPXW(TV) during significant portions of the previous license term fails to qualify as programming specifically designed to serve the educational and informational needs of children (core programming), and that, therefore, Paxson Washington has failed to comply with the processing guidelines of Section 73.671 of the Commission's rules, and has otherwise failed to demonstrate compliance with the Children's Television Act of 1990 ("CTA").<sup>62</sup> Station WPXW(TV)'s Form 398 Children's Television Programming Report for the quarter ending September 30, 2002, described *Miracle Pets* as a "one-hour live-action program" depicting "short reenactments of pets/animals doing heroic, extraordinary acts," which provides children with "positive role models, prosocial values and the importance of taking care of the pets in their lives."<sup>63</sup> *Miracle Pets* was aired by Station WPXW(TV) from the first quarter of 2001 to the third quarter of 2005.

33. In the past, the Commission has stated that "in multi-station transactions, it will grant the transfer of control application while [a] renewal application is pending as long as there are no basic qualification issues pending against the transferor or transferee that could not be resolved in the context of the transfer proceeding, and the transferee explicitly assents to standing in the stead of the transferor in

<sup>61</sup> 2002 *Telemundo Order*, 17 FCC Rcd at 6966. *Northwest Broadcasting, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 3289, 3293 (1997); *John F. Runner, Receiver*, Memorandum Opinion and Order, 36 RR 2d 773, 778 (1976).

<sup>62</sup> 47 C.F.R. § 73.671; Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394.

<sup>63</sup> Station WPXW(TV) FCC 398 Children's Television Programming Report for the quarter ending September 30, 2002.

the pending renewal proceeding.”<sup>64</sup> CIG Media has agreed “to succeed to the position of Transferors in any pending renewal applications and assume responsibility for any actions to be taken by the Commission in those proceedings.”<sup>65</sup> We note that UCC’s allegations involve only one of the 60 full-service television stations that are subject to the proposed transaction, and that the Station WPXW(TV) renewal is the only one that remains outstanding. Without reaching a conclusion as to whether such programming qualifies as “core programming,” we find that UCC’s allegations do not raise a qualification issue involving Paxson Washington that would preclude action on the instant transfer of control applications. UCC has provided no evidence that Paxson Washington has engaged in intentional misrepresentation.

#### IV. CONCLUSION

34. We have reviewed the proposed merger and related pleadings and conclude that grant of the applications will comply with the Commission’s rules. We conclude that the applicants are fully qualified and that grant of above-captioned applications, will serve the public interest, convenience, and necessity.

#### V. ORDERING CLAUSES

35. **IT IS ORDERED**, That the petition to deny filed by Gradient Partners, L.P., Gradient OC Master, Ltd., Caspian Capital Advisors, LLC, River Vail Holdings, L.L.C., Latigo Master Fund, Ltd., Par-Four Master Fund, Ltd., and Southpaw Credit Opportunity Master Funds LP **IS DENIED**.

36. **IT IS FURTHER ORDERED**, That the applications listed in the attached Appendix seeking consent to transfer control of ION Media Networks, Inc., from Lowell W. Paxson and Paxson Management Corporation to CIG Media LLC, **ARE GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>64</sup> *Shareholders of CBS Corporation*, Memorandum Opinion and Order, 16 FCC Rcd 16072, 16072-16073 (2001). *See, also, Stockholders of CBS, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 3733 (1995), *aff’d*, *Serafyn v. FCC*, 149 F.3d 1213 (D.C. Cir. 1998); *Capital Cities/ABC, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 5841 (1996).

<sup>65</sup> *Applications for Transfer of Control*, at Exhibit 14, page 5.



## APPENDIX

## Authorizations to be Transferred from Ion Media Networks, Inc., to CIG Media LLC

Licensee	Call Sign(s)	Facility ID Number(s)	File Number
America 51, LP	KPPX(TV), Tolleson, AZ	26655	BTCCT-20070514AOR
Ocean State Television, LLC	WPXQ(TV), Block Island, RI	50063	BTCCT-20070514APH
Paxson Akron License, Inc.	WVPX(TV), Akron, OH	70491	BTCCT-20070514APL
Paxson Albany License, Inc.	WYPX(TV), Amsterdam, NY	13933	BTCCT-20070514APU
Paxson Atlanta License, Inc.	WPXA(TV), Rome, GA	51969	BTCCT-20070514AQY
Paxson Battle Creek License, Inc.	WZPX(TV), Battle Creek, MI	71871	BTCCT-20070514AQZ
Paxson Boston-68 License, Inc.	WBPX(TV), Boston, MA	7692	BTCCT-20070514ARA
	WMPX-LP, Dennis, MA	6477	BTCTTL-20070514ARD
	WDPX(TV), Vineyard Haven, MA	6476	BTCCT-20070514ARB
	WPXG(TV), Concord, NH	48406	BTCCT-20070514ARC
Paxson Buffalo License, Inc.	WPXJ-TV, Batavia, NY	2325	BTCCT-20070514ARE
Paxson Charleston License, Inc.	WLPX-TV, Charleston, WV	73189	BTCCT-20070514ARF
Paxson Chicago License, Inc.	WCPX(TV), Chicago, IL	10981	BTCCT-20070514ARG
Paxson Communications License Company, LLC	WPXN-TV, New York, NY	73356	BTCCT-20070514ARH
	WPXH(TV), Gadsden, AL	73312	BTCCT-20070514ARJ
	WXPX(TV), Bradenton, FL	6601	BTCCT-20070514ARL
	WPXJ-LP, Jacksonville, FL	29716	BTCTTL-20070514ARW
	WPXM(TV), Miami, FL	48608	BTCCT-20070514ARM
	WIPX-LP, Indianapolis, IN	65121	BTCTT-20070514ARU
	KPXR(TV), Cedar Rapids, IA	21156	BTCCT-20070514ARO
	WPXD(TV), Ann Arbor, MI	5800	BTCCT-20070514ASF
	W48AV, Detroit, MI	68544	BTCTT-20070514ARQ
	WFPX(TV), Fayetteville, NC	21245	BTCTTL-20070514ARK
	KPXG-LP, Portland, OR	69792	BTCTTL-20070514ART
	WNPX(TV), Cookeville, TN	28468	BTCCT-20070514ARN
	WPXV(TV), Norfolk, VA	67077	BTCCT-20070514ARR
	WPXR(TV), Roanoke, VA	70251	BTCCT-20070514ARI
	KWPX(TV), Bellevue, WA	56852	BTCCT-20070514ARS
Paxson	WPXU-LP, Amityville, NY	2129	BTCTTL-20070514ARY

Communications LPTV, Inc.	KPXH-LP, Ft. Collins, CO WPXB-LP, Daytona Beach, FL W40BO, Boston, MA WNPX-LP, Nashville, TN KBPX-LP, Houston, TX	18509 10321 55114 30258 17746	BTCTT-20070514ASB BTCTT-20070514ARZ BTCTT-20070514ASC BTCTVL-20070514ASD BTCTTL-20070514ASA
Paxson Dallas License, Inc.	KPXD(TV), Arlington, TX	68834	BTCCT-20070514ASF
Paxson Denver License, Inc.	KPXC-TV, Denver, CO	68695	BTCCT-20070514ASG
Paxson Des Moines License, Inc.	KFPX(TV), Newton, IA	81509	BTCCT-20070514ASH
Paxson Greensboro License, Inc.	WGPX(TV), Burlington, NC	65074	BTCCT-20070514ASI
Paxson Greenville License, Inc.	WEPX(TV), Greenville, NC	81508	BTCCT-20070514ASJ
Paxson Hartford License, Inc.	WHPX(TV), New London, CT	51980	BTCCT-20070514ASK
Paxson Hawaii License, Inc.	KPXO(TV), Kaneohe, HI	77483	BTCCT-20070514ASL
Paxson Houston License, Inc.	KPXB(TV), Conroe, TX	58835	BTCCT-20070514ASM
Paxson Indianapolis License, Inc.	WIPX(TV), Bloomington, IN	10253	BTCCT-20070514ASO
Paxson Jacksonville License, Inc.	WPXU-TV, Jacksonville, NC	37971	BTCCT-20070514ASP
Paxson Jax License, Inc.	WPXC-TV, Brunswick, GA	71236	BTCCT-20070514ASQ
Paxson Kansas City License, Inc.	KPXE(TV), Kansas City, MO	33337	BTCCT-20070514ASR
Paxson Knoxville License, Inc.	WPXK(TV), Jellico, TN	52628	BTCCT-20070514ASS
Paxson Lexington License, Inc.	WUPX-TV, Morehead, KY	23138	BTCCT-20070514AST
Paxson Los Angeles License, Inc.	KPXN(TV), San Bernardino, CA	58978	BTCCT-20070514ASU
Paxson Milwaukee License, Inc.	WPXE(TV), Kenosha, WI	37104	BTCCT-20070514ASV
Paxson Minneapolis License, Inc.	KPXM(TV), St. Cloud, MN	35907	BTCCT-20070514ASW

Paxson Oklahoma City License, Inc.	KOPX(TV), Oklahoma City, OK	2566	BTCCT-20070514ASX
Paxson Orlando License, Inc.	WOPX(TV), Melbourne, FL	67602	BTCCT-20070514ASY
Paxson Philadelphia License, Inc.	WPPX(TV), Wilmington, DE	51984	BTCCT-20070514ASZ
Paxson Raleigh License, Inc.	WRPX(TV), Rocky Mount, NC	20590	BTCCT-20070514ATA
Paxson Sacramento License, Inc.	KSPX(TV), Sacramento, CA	52953	BTCCT-20070514ATB
Paxson Salem License, Inc.	KPXG(TV), Salem, OR	5801	BTCCT-20070514ATC
Paxson Salt Lake City License, Inc.	KUPX(TV), Provo, UT	57884	BTCCT-20070514ATD
Paxson San Antonio License, Inc.	KPXL(TV), Uvalde, TX	61173	BTCCT-20070514ATE
Paxson San Jose License, Inc.	KKPX(TV), San Jose, CA	22644	BTCCT-20070514ATF
Paxson Scranton License, Inc.	WQPX(TV), Scranton, PA	64690	BTCCT-20070514ATG
Paxson Spokane License, Inc.	KGPX(TV), Spokane, WA	81694	BTCCT-20070514ATH
Paxson Syracuse License, Inc.	WSPX-TV, Syracuse, NY	64352	BTCCT-20070514ATJ
Paxson Tulsa License, Inc.	KTPX(TV), Okmulgee, OK	7078	BTCCT-20070514ATK
Paxson Washington License, Inc.	WPXW(TV), Manassas, VA	74091	BTCCT-20070514ATL
Paxson Washington-60 License, Inc.	WWPX(TV), Martinsburg, WV	23264	BTCCT-20070514ATN
Paxson Wausau License, Inc.	WTPX(TV), Antigo, WI	86496	BTCCT-20070514ATM
Paxson West Palm Beach License, Inc.	WPXP(TV), Lake Worth, FL	27290	BTCCT-20070514ATO
Ion Media Memphis License, Inc.	WPXX-TV, Memphis, TN	21726	BTCCT-20070823AEO

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Ion Media New Orleans License, Inc.	WPXL(TV), New Orleans, LA	21729	BTCCT-20070823AER
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**CONCURRING STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Paxson Management Corporation and Lowell W. Paxson and CIG Media LLC.*

Today's transaction involves the transfer of 60 full-service television broadcast licenses to a purchaser about which the Commission knows precious little. We do not know the identity of the investors in this particular fund, and we do not know how this fund has treated other companies it has owned in recent years. Though we know that the fund does not own other media properties, we do not know whether our attribution rules adequately capture the real distribution of power within this new corporate owner. Indeed, we are not even sure what type of entity we are dealing with here: Most press reports refer to it as a "hedge fund," our own *Order* refers to it as a "private equity fund," while the company's own website describes it as "one of the world's most sophisticated alternative investment institutions."<sup>1</sup>

In short, we don't have anywhere near the information or context necessary to know whether this change in control will harm viewers in the 60 communities that the company is licensed to serve. This is an especially urgent question because the stations at issue here—roughly 3% of the total TV stations in the United States—represent some of the only outlets for independent broadcast programming available today. So while it is certainly a good omen that the new owners will retain the network's existing management, I do not believe the Commission has enough information before it right now to say, with confidence, that the network's commitment to programming diversity on the public airwaves will endure under the new ownership structure. I, for one, will be watching closely to see that it does.

At some level, the Commission's fundamental lack of curiosity about the identity of our new licensees is hardly a surprise. Even as private equity firms have begun to acquire substantial numbers of broadcast stations (witness the Univision and Clear Channel acquisitions just this year), the Commission has been content to emulate the figures in the famous "see no evil, hear no evil, speak no evil" carving. This in stark contrast to other branches of our government—like the President's Working Group on Financial Markets and the Securities and Exchange Commission—which have shown far greater interest in attempting to understand the regulatory implications of hedge funds and similar financial creations. Accordingly, I must concur in today's *Order* and renew my call for a general Commission inquiry into the impact of private equity, hedge funds, and other related investment vehicles on our ability to protect, serve, and sustain the public interest in our broadcast media.

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<sup>1</sup> See Marcia Vickers, "A Hedge Fund Superstar," *Fortune* (April 3, 2007); "Citadel Investment Group, LLC: About Us," available at <http://www.citadelgroup.com/> (last visited 12/28/07).